

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
<u>ex rel.</u> PAUL CAIRNS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:12 CV 00004 AGF
	)	
D.S. MEDICAL, L.L.C., et al.,	)	
	)	
Defendants.	)	

**THE GOVERNMENT AND THE RELATORS' JOINT STATUS REPORT**

Plaintiff and Relators, pursuant to the Court's May 20, 2020 Order, file this status report confirming that all parties negotiated in good faith. The parties further advise the Court that the Government has identified a representative of the Medicare program that is actively participating in these negotiations, and this representative currently has the authority to resolve defendants' administrative liability (e.g. program exclusion) from the conduct litigated in this case. Through these recent negotiations, the Government has learned that defendants' position on their exclusion from federal programs has not materially changed since the parties' last mediation session on June 8, 2018. Absent a mutually acceptable approach to exclusion, the parties cannot reach a settlement in this case. Accordingly, the Government and Relators respectfully request that the Court lift the stay imposed by its May 20, 2020 Order and require defendants to post a supersedeas bond by May 29, 2020 in the manner and form discussed in that Order.

Defendants have raised the issue of mediation with the Court serving as the mediator in their Notice to the Court that was filed today. Since defendants have expressed an intention to appeal the Court's rulings in this case, and an appeal may result in a new trial, the Government and the Relators respectfully object to mediation by the Court, as it may need to re-try this case.

Respectfully submitted on behalf of the  
Government and Relators,

JOSEPH H. HUNT  
Assistant Attorney General

CARRIE COSTANTIN  
Attorney for the United States  
Acting Under Authority  
Conferred by 28 U.S.C. § 515

/s/ Andrew J. Lay  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on May 22, 2020, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Matthew P. Diehr  
Bruce Bartlett  
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*Attorneys for Relators*

James Martin  
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*Attorney for Dr. Fonn and Midwest Neurosurgeons*

Sandy Boxerman  
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*Attorney for Deborah Seeger and DS Medical*

/s/ Andrew Lay